IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Writ Petition No. 16717 of 2004
DATE OF DECISION : 9-11-2006

Punjab Urban Planning & Development
Authority, Patiala, through its Estate Officer. … Petitioner

versus

Manjit Singh and another … Respondents

CORAM:- HON'BLE MR. JUSTICE J.S.NARANG
HON'BLE MR. JUSTICE ARVIND KUMAR

Present: Mr. Govind Goel, Advocate,
for the petitioner

Mr. R.S.Sharma, Advocate
for respondent-workman.

…

ARVIND KUMAR, J:

This shall dispose of Civil Writ Petitions No. 16717 and 3799 of 2004. Civil Writ Petition No.16717 of 2004 has been preferred by the department against award dated 24.10.2003 of the Labour Court, Patiala, whereby the workman has been held entitled to receive one month's salary at the rate last drawn by him, while Civil Writ Petition No.3799 of 2004 has been preferred by the workman against the afore-stated award whereby it has declined the relief of reinstatement and back-wages with continuity of service to him.

In brief, the facts are that the workman was appointed as Process-server by the department. He worked there from 1.12.1995 to 28.6.1996 at a monthly salary of Rs.2100/-. On 29.6.1996, his services were terminated by the department. Workman served a demand notice upon the department whereafter reference was made to the Labour Court for adjudication. Workman filed his claim statement challenging the

termination order on the ground that the department illegally terminated his services without any notice or compensation in lieu thereof, in violation of Section 25-F of the Industrial Disputes Act,1947 (in short, the Act). Upon notice of the claim statement, the department filed its reply thereby denying the averments made in the claim statement. It was stated that the termination of the workman was in accordance with the terms and conditions of appointment of the workman. It was pleaded that the workman is not entitled to the relief as he worked for 210 days only.

The learned Labour Court on appreciation of evidence adduced on record by the parties, vide the impugned award, decided the reference in the manner indicated above. This is how, the two writ petitions, one by the workman and the other by the department has been filed before this Court.

Upon notice of the writ petitions, written statement has been filed by the workman and the department, resisting the pleas raised in the writ petition filed against each of them.

We have heard the learned counsel for the parties and perused the paper-book.

In the instant case, the workman had rendered service from 1.12.1995 to 28.6.1996. Section 25-F of the Act provides protection to a workman from illegal retrenchment who has completed 240 days of continuous service in a year or say 12 calendar months preceding the date of termination. In this case,the admitted position is that the workman had worked only for 210 days when his services were terminated. Therefore, the learned Labour Court has rightly concluded that he is not entitled to the protection provided under Section 25-F of the Act ibid. A bare perusal of the award shows that the Labour Court had adequately dealt with the other issues raised by the workman and also in relation to the violation of Section 25-G and H of the Act and then to hold that there was no such violation. We refrain ourselves to take any contrary view.

The workman had worked during the aforesaid period by virtue of appointment of 89 days' basis with further two extensions of two months each. The last extension was to expire on 26.7.1996 as is evident from the office order, Annexure P-2/T. However, he was relieved from his duties with effect from 28.6.1996 i.e. one month prior to the said extended

period. It is in this backdrop the learned Labour Court has held that the action of the department is in violation of principles of natural justice which requires either service of notice of one month or payment of one month's salary in lieu thereof before termination is brought about. Thus, the conclusion has been drawn only to the extent that the workman is entitled to receive one month's salary at the rate last drawn by him. The workman has misconstrued that the termination of his services has been held to be invalid. Had it been so, the termination of the services would have been set aside in clear terms with reinstatement and continuity of service and of course with some back-wages. However, since one month's salary has been allowed to the workman,that too for the sake of principles of natural justice, in our view the findings so recorded by the learned Labour Court are not perverse. While exercising the extra-ordinary jurisdiction under Articles 226/227 of the Constitution of India, this Court would not sit as a Court of appeal over the findings of fact recorded by the Labour Court. In these circumstances, it would not be just and proper to interfere with the award made by the Labour Court.

In view of the above, we do not find any merit in both the writ petitions and the same are accordingly dismissed.

(ARVIND KUMAR)
JUDGE

(J. S. NARANG)
JUDGE

November 9, 2006
JS